

Fort Sumter National Monument
Charles Pinckney National Historic Site

Division of Visitor Protection

JURISDICTIONAL COMPENDIUM

Issued May 2005

I. Introduction

Fort Sumter National Monument (FOSU) and Charles Pinckney National Historic Site (CHPI) falls within three different cities, Charleston, Mount Pleasant, and Sullivan's Island, South Carolina, all within Charleston County.

Fort Sumter National Monument is comprised of four separate and unique sites; Fort Sumter, constructed on a man-made island that sits at the mouth of the Charleston Harbor; Fort Moultrie and Life Saving Station located on the southeast end of Sullivan's Island, South Carolina; and Liberty Square located at the east end of Calhoun Street in downtown Charleston.

The park is bordered by private and commercial lands within three different cities. Additionally, these park sites are bordered by Charleston Harbor and/or the intercoastal waterway.

The purpose of this document is to identify the forms of legal jurisdiction on all lands and waters within and managed by Fort Sumter National Monument and Charles Pinckney National Historic Site. Secondly, the document includes a discussion of the National Park Service (NPS) rangers' authority to act outside of park boundaries and under cooperative agreement as do other authorities including Federal, State, and local law enforcement agencies to perform law enforcement within the Park.

This document is required by NPS policies as an important component of the park's law enforcement program. It will be reviewed annually for currency and updated as needed.

II. Definitions

A. Jurisdiction: The term jurisdiction defines the sphere of authority and outlines the legally-defined boundaries of territorial limits within which any particular authority may be exercised.

B. Authority: The lawful grant of specific powers.

- C. Exclusive Legislative Jurisdiction:** The Federal government possesses all the authority of the State, subject only to the right of the State to serve criminal and civil process for actions occurring outside the unit. Law enforcement must be provided by the United States since State law may not be enforced by a State officer within a NPS unit under this jurisdiction. Exclusive jurisdiction allows the NPS to enforce Federal criminal statutes and also to assimilate State law under Title 18 U.S.C. 13, when no applicable Federal law or regulation exists.
- D. Partial Legislative Jurisdiction:** This type of jurisdiction is very similar to exclusive jurisdiction, except that the State has reserved the right to exercise certain authority, such as the right to tax or to sell fishing licenses. Partial legislative jurisdiction allows the NPS to enforce Federal criminal statutes and also to assimilate State law under Title 18 U.S.C. 13, when no applicable Federal law or regulation exists.
- E. Concurrent Legislative Jurisdiction:** The United States and the States jointly hold and exercise all rights accorded a sovereign, with the broad qualification that such authority is held concurrently. The United States, however, has the superior right under the supremacy clause of the Constitution to carry out Federal functions unimpeded by State regulations. Concurrent jurisdiction allows the NPS to enforce Federal criminal statutes and also to assimilate State law under Title 18 U.S.C. 13, when no applicable Federal law or regulation exists.
- F. Proprietary Jurisdiction:** The United States has no legislative jurisdiction or measure of the State's authority over Federal land, but exercises all the rights of a property owner. The United States has, however, certain other constitutional powers that a private individual does not hold. Congress has delegated a measure of that constitutional authority to the NPS to make and enforce regulations (36 CFR Chapter 1) in all NPS areas (see 16 U.S.C. 1a-2(h), 1c and 3). A State may exercise its legislative jurisdiction (police power) over the acts of private persons in park areas to the same extent as on privately owned lands. The State may exercise its full civil and criminal jurisdiction over private activities on Federal lands held under proprietary status. The State may not impose its regulatory power directly upon the United States without specific congressional consent, nor may it tax Federal land. The State also may not regulate in a way that would directly interfere with the performance of a United States function, law or regulation.

III Types of Jurisdiction within Parks

A. Fort Sumter National Monument

Areas of Concurrent Legislative Jurisdiction. The National Park Service jointly holds concurrent jurisdiction on all sites that comprise Fort Sumter National Monument; Fort Sumter, Liberty Square, Life Saving Station, and Fort Moultrie.

B. Charles Pinckney National Historic Site

Areas of Concurrent Legislative Jurisdiction. The National Park Service jointly holds concurrent jurisdiction on all of Charles Pinckney National Historic Site within the state of South Carolina.

IV. NPS Authorities Within and Outside the Park

A. 16 USC 1a-6

This code authorizes the Secretary of the Interior to designate pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

(1) Carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

(2) Execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

(3) Conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

B. 16 USC 1b(1) Emergency Assistance

This code authorizes the NPS's "rendering of emergency rescue, fire fighting, and cooperative assistance to nearby law enforcement and fire prevention agencies and for related purposes outside of the National Park System."

DO-9/RM-9: Establishes the extent and scope of the law enforcement assistance provided by the NPS under 16 USC 1b(1).

It has been the NPS's long-standing interpretation of 16 USC 1b(1) that such NPS law enforcement assistance generally stem from some sort of an *unexpected occurrence* that requires *immediate action* and may include one or more of the following:

- Emergency responses such as life or death incidents, serious injury/fatality accident/incident scenes, crime scenes involving the protection of human life, officer in trouble, threat(s) to health or safety of the public.

- Emergency or law enforcement incidents directly affecting visitor safety or resource protection.
- Probable cause felonies and felonies committed in the presence and observed by National Park Service Rangers.
- Misdemeanors committed in the presence of National Park Service Rangers that present an immediate threat to the health and safety of the public.

C. Non-Emergency Cooperative Assistance To Nearby Law Enforcement and Emergency Service Agencies.

Under authority granted by 16 USC, park management has made a determination that it is the park's best interest to provide occasional, non-emergency cooperative assistance to nearby law enforcement and emergency service agencies with which the park works very closely. This includes a wide variety of Federal, State, and local departments within the metropolitan Charleston, South Carolina area that frequently provide mutual-aid and cooperative assistance to the National Park Service. This type of non-emergency cooperative assistance is authorized based on a finding by park management that providing this type of assistance is an important and effective management tool for improved administration and management of the park. Identified benefits include enhancing interagency relationships that better facilitate mutual-aid responses within and outside the park, improved protection of park resources and visitors, improved officer safety, improving community relations and other related purposes.

Per DO-9 and RM-9, both emergency and non-emergency cooperative assistance provided to these nearby law enforcement and emergency services agencies must be limited to those actions which support and/or assist those agencies. Under no circumstance may NPS personnel take the lead role in performing law enforcement operations outside of park boundaries, except as provided by 16 USC 1a-6.

In addition, it shall be the policy of this park that non-emergency cooperative assistance provided to nearby law enforcement and emergency service agencies must be at the request of the receiving agency, have a clear nexus to the park and its surrounding communities and be approved by the participating employee's supervisor.

All forms of assistance provided to other agencies, whether emergency or non-emergency, will be fully documented in a Case Incident Report (Assistance to Other Agency).

Note: While 16 U.S.C. 1b(1) authorizes the NPS to provide law enforcement assistance to localities outside park areas, the statute itself does not confer arrest authority to NPS personnel to act outside park boundaries. Congress cannot provide the authority to enforce State laws; only the State can confer such authority on NPS personnel.

The following is a list of agreements used by management at Fort Sumter National Monument and Charles Pinckney National Historic Site.

- General Agreement Number G543002004 with the Town of Sullivan's Island for fire support for the Fort Moultrie and Life Saving Station Site.
- General Agreement Number G543002005 with the City of Charleston for fire support for the Liberty Square Site
- InterAgency Agreement Number IA-5440-A0-001 with the Town of Mount Pleasant for fire support for the Charles Pinckney National Historic Site

D. South Carolina State Authority. See appropriate state law.

V. Authority of other Federal Agencies within the Park

- A. Federal Bureau of Investigation (FBI): The FBI has primary jurisdiction over terrorism, homicide and assaults on federal officers occurring on Federal property.
- B. Drug Enforcement Administration (DEA): The DEA has primary jurisdiction over drug manufacturing cases.
- C. U.S. Fish and Wildlife Service (USFWS): The USFWS has limited investigatory Authority, including but not limited to the Migratory Bird Treaty Act, Lacey Act, etc.
- D. U.S. Marshall's Service: The Department of Interior has a General Agreement with the U.S. Marshall's Service relating to assistance to be provided to Interior agencies in anticipation or response to civil disturbances.

VI Authority of State, County, City, and other agencies within the Park

A. Concurrent Jurisdiction lands and waters

- 1. State Officers may enforce all laws promulgated by the state or the county in which the Park is located.
- 2. County Officers (Charleston County) may enforce all laws promulgated by the state or county. The territorial jurisdiction of county officers is limited to their respective county, unless otherwise authorized by state statute.
- 3. City police officers (Sullivan's Island, Mount Pleasant, and Charleston) may enforce all laws authorized by the state or local authority with other respective jurisdiction. The territorial jurisdiction of city police officers is limited to the city unless otherwise authorized by state statute.

VII Special Police Designations with Neighboring Law Enforcement Agencies

- A. 16 United States Code 1a-6(c) authorizes the Secretary of the Interior to:

“(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of the agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section,”

- B. General Agreements with local law enforcement agencies will generally include a Special Police Deputation provision if appropriate.
- C. Park Management has determined that Special Police Deputation is not warranted at this time.

VIII. Special Situations. Hurricane disturbances are special situations that often require emergency cooperation with other agencies in areas that are not anticipated. Once the initial emergency is over, any continuation of cooperation should be documented in a General Agreement between the Park and agency.

IX. Appendices

B. Agreements

- General Agreement Number G543002004 with the Town of Sullivan’s Island for fire support for the Fort Moultrie and Life Saving Station Site.
- General Agreement Number G543002005 with the City of Charleston for fire support for the Liberty Square Site
- Interagency Agreement Number IA-5440-A0-001 with the Town of Mount Pleasant for fire support for the Charles Pinckney National Historic Site